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9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 GOOGLE LLC,

13 Plaintiff,

14 vs.

15 SONOS, INC.,

16 Defendant.

CASE NO. 3:20-cv-06754-WHA

Related to CASE NO. 3:21-cv-07559-WHA

**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF ITS OPPOSITION TO
SONOS, INC.'S MOTION FOR LEAVE
TO AMEND INFRINGEMENT
CONTENTIONS PURSUANT TO
PATENT L.R. 3-6**

I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Google LLC (“Google”) hereby requests to file under seal portions of its Opposition to Sonos, Inc.’s Motion for Leave to Amend Infringement Contentions Pursuant to Patent L.R. 3-6 (“Opposition”). Specifically, Google requests an order granting leave to file under seal the portions of the document listed below:

| Document | Portions to Be Filed Under Seal | Designating Party |
|----------------------------------|---------------------------------|-------------------|
| Google’s Opposition | Portions highlighted in yellow | Google |
| Exhibit 1 to Google’s Opposition | Portions outlined in red boxes | Google |

II. LEGAL STANDARD

Civil Local Rule 79-5(c) provides that a party seeking to file its own documents under seal must file an administrative motion that articulates the applicable legal standard and reasons for keeping a document under seal, includes evidentiary support from a declaration where necessary, and provides a proposed order that is narrowly tailored to seal only the sealable material.

Historically, courts have recognized a “general right to inspect and copy public records and documents, including judicial records and documents.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (citing *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 n.7 (1978)). “To seal records in connection with a ‘dispositive’ motion or a motion that ‘more than tangentially relate[s] to the merits of a case,’ ‘compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure’ are required.” *Bronson v. Samsung Elecs. Am., Inc.*, No. C 18-02300 WHA, 2019 WL 7810811, at *1 (N.D. Cal. May 28, 2019) (quoting *Kamakana*, 447 F.3d at 1178-79). “A particularized showing of ‘good cause’ under Federal Rule of Civil Procedure 26(c), however, suffices to warrant sealing in connection with a non-dispositive motion.” *Id.* This Court has analyzed sealing requests for motions for leave to amend infringement contentions pursuant to the “good cause” standard for non-dispositive motions. *See, e.g., Mediatek Inc. v. Freescale Semiconductor, Inc.*, No. 11-CV-5341 YGR, 2013 WL 10996547, at *1 (N.D. Cal. May 10, 2013)

1 III. THE COURT SHOULD SEAL GOOGLE’S CONFIDENTIAL INFORMATION

2 Although the materials that Google seeks to seal here meet the higher “compelling reasons”
 3 standard, the Court need only consider whether these materials meet the lower “good cause”
 4 standard because Google’s Opposition is a non-dispositive motion. *Id.* Courts have repeatedly
 5 found it appropriate to seal documents that contain “business information that might harm a
 6 litigant’s competitive standing.” *Nixon*, 435 U.S. at 589-99. Good cause to seal is shown when a
 7 party seeks to seal materials that “contain[] confidential information about the operation of [the
 8 party’s] products and that public disclosure could harm [the party] by disclosing confidential
 9 technical information.” *Digital Reg. of Texas, LLC v. Adobe Sys., Inc.*, No. C 12–1971 CW, 2014
 10 WL 6986068, at *1 (N.D. Cal. Dec. 10, 2014). Materials that detail product architecture and could
 11 harm a litigant’s competitive standing may be sealed even under the “compelling reasons” standard.
 12 *See e.g., Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, No. 12–cv–03844–JST, 2015
 13 WL 984121, at *2 (N.D. Cal. Mar. 4, 2015) (information “is appropriately sealable under the
 14 ‘compelling reasons’ standard where that information could be used to the company’s competitive
 15 disadvantage”) (citation omitted); *Delphix Corp. v. Actifo, Inc.*, No. 13-cv-04613-BLF, 2014 WL
 16 4145520, at *2 (N.D. Cal. Aug. 20, 2014) (finding compelling reasons to seal where court filings
 17 contained “highly sensitive information regarding [an entity’s confidential] product architecture and
 18 development”).

19 The yellow-highlighted portions of Google’s Opposition on pages 5, 6, and 7 and the
 20 portions of Exhibit 1 outlined in red boxes contain confidential information regarding highly
 21 sensitive features of Google’s products. Specifically, the above-listed information details the
 22 operation and system design of functionalities Sonos accuses of infringement. Public disclosure of
 23 this information would harm the competitive standing Google has earned through years of
 24 innovation and careful deliberation by revealing sensitive aspects of Google’s proprietary systems,
 25 strategies, designs, and practices to Google’s competitors. Declaration of Jocelyn Ma (“Ma Decl.”),
 26 ¶ 3. Thus, Google has good cause to keep such information under seal. *See, e.g., Guzik Tech.*
 27 *Enterprises, Inc. v. W. Digital Corp.*, No. 5:11-CV-03786-PSG, 2013 WL 6199629, at *4 (N.D. Cal.

1 Nov. 27, 2013) (sealing exhibit containing “significant references to and discussion regarding the
2 technical features” of a litigant’s products).

3 Additionally, the yellow-highlighted portions of Google’s Opposition on pages 3 and 12
4 contain confidential information regarding Google’s highly sensitive financial and product revenue
5 data, as well as figures from which a competitor could deduce Google’s highly sensitive financial
6 and product revenue data. Public disclosure of this information would harm the Google’s
7 competitive standing and create a risk of injury by providing competitors with access to information
8 that Google does not have similar access to about their competitors, allowing them to gain a
9 competitive advantage in the marketplace. Ma Decl., ¶ 4. Google has good cause to keep such
10 information under seal. *See, e.g., Rodman v. Safeway, Inc.*, No. 11-cv-03003-JST, 2014 WL
11 12787874, *2 (N.D. Cal. Aug. 22, 2014); *Arista Networks, Inc. v. Cisco Sys., Inc.*, No. 16-cv-00923-
12 BLF, 2018 WL 2010622, *2-3 (N.D. Cal. Apr. 30, 2018) (sealing highly confidential information
13 relating to Cisco’s financial information and internal development strategies); *Queen’s Med. Ctr. v.*
14 *Kaiser Found. Health Plan, Inc.*, No. CIV. 12-00565 ACK, 2014 WL 1234506, at *3 (D. Haw. Mar.
15 24, 2014) (sealing information from which “a third party competitor might deduce the rate of
16 discount” provided by certain agreements).

17 **IV. CONCLUSION**

18 For the foregoing reasons, Google respectfully requests that the Court grant Google’s
19 Administrative Motion to File Portions of Google’s Opposition Under Seal.

21 DATED: March 16, 2022

QUINN EMANUEL URQUHART & SULLIVAN,
LLP

23 By: /s/ Charles K. Verhoeven

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ATTESTATION

Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that, on March 16, 2022, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system and email.

DATED: March 16, 2022

By: /s/ Charles K. Verhoeven
Charles K. Verhoeven